

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Health and Human Services Appropriations Committee

---

BILL: PCS/SB 1468 (831272)

INTRODUCER: Committee on Health and Human Services Appropriations

SUBJECT: Home and Community-based Services

DATE: March 17, 2010

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bradford	Hansen	HA	<b>Pre-meeting</b>
2.			WPSC	
3.			RC	
4.				
5.				
6.				

**I. Summary:**

The bill requires the Agency for Persons with Disabilities (APD) to impose an expenditure cap of \$120,000 in tier one in the Home and Community Services waiver and reduces the expenditure caps in tiers two, three, and four by ten percent.

The bill eliminates the provision of behavior assistant services and requires the APD to amend its contracts as necessary.

The estimated impact in Fiscal Year 2010-11 is a reduction of \$13.8 million, of which \$5.3 is general revenue. The annualized fiscal impact is an estimated reduction of \$25.7 million, of which \$9.9 million is general revenue.

This bill amends ss. 393.0661, F. S.

**II. Present Situation:**

The Agency for Persons with Disabilities (APD or the agency) has the responsibility to provide services to persons with developmental disabilities. A developmental disability is a disorder or syndrome attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and constitutes a substantial handicap expected to continue indefinitely.<sup>1</sup> The agency annually serves about 30,000 Floridians with developmental disabilities. As of February 1, 2010, there were 18,861 individuals awaiting services.

---

<sup>1</sup> Section 393.063(9), F.S.

An individual is eligible for services if he/she has a developmental disability and is three years of age or older. Children who are between the ages of three and five years of age and are at high risk of having a developmental disability are also eligible for services. Services provided by the agency include community services and supports as well as a limited institutional program. The agency determines eligibility, assesses service needs, and provides funding for purchasing the supports and services identified in assessments.

The range of services and supports available to an individual include employment and training services, environmental adaptive equipment, personal or family supports, residential habilitation, support coordination, and therapeutic supports. There are medical requirements specific to a particular service or support in addition to the general eligibility criteria for services from the APD. The majority of services are provided through one of two federal Medicaid waivers.

In 2007, the legislature directed the APD to redesign its Home and Community-Based Services waiver.<sup>2</sup> Section 393.0661, F.S., was modified to require a four tier delivery system for waiver services.

- Tier one includes only the most complex clients without a cap on expenditures.<sup>3</sup>
- Tier two is limited to clients who are authorized for five or more hours of residential habilitation or require more than six hours of in-home support services per day. Tier two annual expenditures are capped at \$55,000.<sup>4</sup>
- Tier three includes clients requiring residential placements, clients in independent or supported living situations, and clients who live in their family homes. Annual expenditures for clients in tier three are capped at \$35,000.<sup>5</sup>
- Tier four is the family and supported living waiver and is capped at \$14,792 per year.<sup>6</sup>

One of the services available to waiver clients is behavior assistant services. These are one-on-one activities, designated by a licensed behavioral analyst in a client's behavior analysis service plan, and carried out by a behavior analyst assistant, in the client's home or in other community settings. These services are provided for clients for whom traditional residential habilitation services have been unsuccessful or are considered to be inappropriate for health or safety reasons; and for children who require behavioral services, but for whom providing services in the family home will likely be more effective and least restrictive. Services are intended to be provided for a limited time and discontinued as the support persons gain skills and abilities to assist the recipient to function in more independent and less challenging ways.<sup>7</sup>

---

<sup>2</sup> Chapter 2007-64, L.O.F.

<sup>3</sup> Section 393.0661(3)(a), F.S..

<sup>4</sup> Section 393.0661(3)(b), F.S.

<sup>5</sup> Section 393.0661(3)(c), F.S.

<sup>6</sup> Section 393.0661(3)(d), F.S.

<sup>7</sup> Agency for Health Care Administration, Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, "Behavior Assistant Services", (Tallahassee, FL, July 2007), 2-24.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 393.0661, F.S., to impose or revise the expenditure caps on each of the four tiers and to eliminate the provision of behavior assistant services.

The bill directs the APD to implement an expenditure cap of \$120,000 for clients in tier one in the Home and Community Based Services Waiver. This will affect approximately 354 individuals.

The bill directs the APD to implement an expenditure reduction of ten percent in tiers two, three, and four in the Home and Community Based Services waiver. This will affect an estimated 29,535 individuals.

- Tier one annual expenditures are capped at \$120,000
- Tier two annual expenditures are capped at \$49,500
- Tier three annual expenditures are capped at \$31,500
- Tier four annual expenditures are capped at \$13,313

This bill directs APD to eliminate behavior assistant services in the Home and Community Based Services Waiver program and for the behavior analyst located in a group or foster home setting to train direct care staff to correctly and appropriately implement behavioral interventions.

**Section 2** provides an effective date of July 1, 2010.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

#### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

#### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The private sector will see substantial reduction in state funded services.

**C. Government Sector Impact:**

The bill has an estimated annual savings of \$25.7 million related to:

- limiting expenditures in the Home and Community Based Service waiver for individuals in all four tiers, and
- eliminating redundancies in behavior assistance services.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.